

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LEONDRE WILLIAMS,	§	
	§	No. 7, 2011
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court of
	§	the State of Delaware, in and
v.	§	for Sussex County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0612015467
Appellee.	§	

Submitted: February 16, 2011
Decided (in part): April 27, 2011

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

ORDER

This 27th day of April 2011, upon consideration of the appellant's opening brief and the appellee's motion to affirm, it appears to the Court that:

(1) On August 6, 2007, the appellant, Leondre Williams, pled guilty to Assault in the Second Degree and Possession of a Weapon During the Commission of a Felony ("2007 assault case"). Williams was sentenced to a total of seven years at Level V suspended after three years for one year at Level IV substance abuse treatment, suspended after completion for six

months at Level III. It appears from the record that Williams was released to Level III probation on November 24, 2009.¹

(2) On January 7, 2010, a *capias* issued on a violation of probation (VOP) in the 2007 assault case. Thereafter, on February 2, 2010, Williams was arrested on new charges of Criminal Trespass in the First Degree, Offensive Touching, and Resisting Arrest (“2010 criminal trespass case”).² Williams was released on secured bail in the 2010 criminal trespass case.

(3) Williams did not appear for the February 26, 2010 VOP hearing in the 2007 assault case, and he did not appear for the March 18, 2010 arraignment in the 2010 criminal trespass case. Williams remained at large until May 21, 2010.

(4) On May 21, 2010, Williams was arrested and held in default of bail on new charges of Attempted Murder in the First Degree, Possession of a Firearm During the Commission of a Felony and Possession of a Firearm/Ammunition by a Person Prohibited (“2010 attempted murder charges”).³ On May 25, 2010, Williams was arraigned in the 2010 criminal trespass case.

¹ See docket at 33, *State v. Williams*, Del. Super., Cr. ID No. 0612015467, (Dec. 18, 2009) (letter dated November 24, 2009 from Department of Correction advising Superior Court that defendant was released to Level III supervision)).

² *State v. Williams*, Del. Super., Cr. ID No. 1002000988.

³ *State v. Williams*, Del. Super., Cr. ID No. 1004005664.

(5) On June 3, 2010, Williams was adjudged guilty of VOP in the 2007 assault case. Sentencing on the VOP was deferred pending the disposition of the 2010 attempted murder charges. On August 23, 2010, Williams pled guilty in the 2010 criminal trespass case and was sentenced to a total of two years and one month at Level V suspended after two months for three years at Level III.

(6) On December 8, 2010, Williams was sentenced in the VOP 2007 assault case to seven years and nine months at Level V, suspended after four years for three years at Level III (“VOP 2007 assault sentence”). The sentencing order noted: “The Level V time imposed in today’s sentence [*i.e.*, four years] takes into consideration all time previously served.” On December 13, 2010, the State entered a *nolle prosequi* on the 2010 attempted murder charges.

(7) In December 2010 and January 2011, Williams filed successive motions seeking additional credit for time served applied to the VOP 2007 assault sentence. The first motion, filed on December 13, 2010, was denied by the Superior Court on December 14, 2010. The second motion, filed on December 20, 2010, was denied on December 21, 2010. The third motion was filed and denied on December 22, 2010. The fourth motion, filed on January 4, 2011, was denied on January 11, 2011. This appeal followed.

(8) In his opening brief on appeal, Williams contends that the VOP 2007 assault sentence was excessive and was imposed by a judge with a “closed mind.” Williams also contends, as he did in his January 4, 2011 motion, that he is entitled to credit on the VOP 2007 assault sentence for the time that he was in custody on the 2010 attempted murder charges that were dismissed by *nolle prosequi* on December 13, 2010.

(9) Williams’ claim as to the sentencing judge’s “closed mind” when imposing the VOP 2007 assault sentence is not subject to appellate review in the absence of a transcript of the December 8, 2010 sentencing, which Williams did not order for this appeal.⁴ Therefore, on that claim, on the face of Williams’ opening brief, the Superior Court judgment will be affirmed. It does not appear manifest on the face of the opening brief that Williams’ claim for time-served credit is without merit under the criteria set forth in Supreme Court Rule 25(a).

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED in part and DENIED in part.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

⁴ *Tricoche v. State*, 525 A.2d 151, 154 (Del. 1987).